

**From:** [Vargas, SUSAN L CIV PHD NSWC, 10611](#)  
**To:** [Stokes, Abigail T CIV NAVSEA, SEA 00L](#)  
**Subject:** FW: Magallon, Freedom of Information Act (FOIA) Request, 2015-OCHR-0023  
**Date:** Thursday, September 21, 2017 18:48:33  
**Attachments:** [adverse action worksheet.pdf](#)  
[Notice of prop action.pdf](#)  
[Minutes of oral counseling doc.pdf](#)  
[oral counseling doc.pdf](#)  
[31 oct 13 offer of settlement ltr to fortunati.pdf](#)  
[Magallon-DECISION ON PROPOSED SUSPENSION.PDF](#)  
[Magallon-EMAILS and CORRESPONDENTS.PDF](#)  
[Magallon-OFFER OF SETTLEMENT.PDF](#)  
[Magallon-ORAL COUNSELING DOC..pdf](#)  
[Magallon-PROPOSED SUSPENSION.PDF](#)  
[magfoiacharmdocs.pdf](#)

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FYI.

-----Original Message-----

**From:** Lazarus, Philip S CIV PHD NSWC, 00L  
**Sent:** Wednesday, September 23, 2015 12:33 PM  
**To:** Christensen, April A CIV OGC, OGC  
**Cc:** Rampey, Marvin D CIV PHD NSWC, 00L; Vicuna, Edward F CIV PHD NSWC, 101; Vargas, SUSAN L CIV PHD NSWC, 10611  
**Subject:** FW: Magallon, Freedom of Information Act (FOIA) Request, 2015-OCHR-0023

April -

Here is our response, attached. Btw, although we knew we disclosed all of these documents to her as part of the discovery process for her EEO cases, and also as part of the 14 day suspension process, we still treated her request under the FOIA rules. Again, since she is represented by counsel, we first notified him that his client communicated her request directly to us and, after preparing our response, we then sent our FOIA response to her counsel.

Thank you.

Vr Philip

-----Original Message-----

**From:** Lazarus, Philip S CIV PHD NSWC, 00L  
**Sent:** Wednesday, September 16, 2015 12:45 PM  
**To:** Christopher Fortunati (Christopher@baskinlawoffice.com)  
**Cc:** Rampey, Marvin D CIV PHD NSWC, 00L; Denise Hansen (Denise@baskinlawoffice.com)  
**Subject:** Magallon, Freedom of Information Act (FOIA) Request, 2015-OCHR-0023

Department of the Navy  
Naval Surface Warfare Center (NSWC)  
Port Hueneme Division (PHD)  
4363 Missile Way  
PORT HUENEME, CA 93043

16 September 2015

Christopher A. Fortunati, Esq.  
Law Office of Robert M. Baskin  
1849 Knoll Drive  
Ventura, CA 93003

SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) request of Rosie Magallon (2015-OCHR-0023); and

Rosie Magallon (FOIA) email to Anthony Edozie dated 2 September 2015

Dear Mr. Fortunati -

On 24 July 2015 (via OCHR), and on 2 September 2015 (email to Anthony Edozie), Ms. Magallon communicated directly with the agency a request for documents under the Freedom of Information Act (FOIA) statute. As these requests relate to her ongoing EEO litigation, we respond directly to you as her counsel, attached and as expressed below:

REQUEST OF 24 JULY 2015:

a. Copy of the pre-Action Investigation report on second offense prepared by Mr. Edozie, which includes my versions of events.

As described, does not exist. However, see attached supporting documentation for her suspension under the CHRM.

b. Copy of the proposed Disciplinary / Adverse Action Worksheet on second offense prepared by Mr. Edozie, which has my signature.

See attached worksheet

c. Copy of the meeting minutes Oral response to the second offense Notice of Suspension on or about November 27, 2013. NSWCD PHD Human Resources (Mr. Michael Goodman) was present during the meeting.

As described, does not exist.

d. Copy of the corrective action plan for second offense, which has my signature.

As described, does not exist.

e. Copy of my first offense relative to my second offense (14 day suspension without pay), including supporting documentation.

See attached.

f. Copy of the proposed Disciplinary / Adverse Action Worksheet first offense prepared by Mr. Edozie, which has my signature.

As described, does not exist.

g. Copy of the pre-Action Investigation report on my first offense prepared by Mr. Edozie, which includes my versions of events.

As described, does not exist.

h. Copy of the corrective action plan for first offense, which has my signature.

As described, does not exist.

i. Copy of relative documentation for request on my resignation.

See attached.

REQUEST OF 2 SEPTEMBER 2015:

See attached supporting documentation for her 14 day suspension under the CHRM.

Thank you,

Philip Lazarus  
Assistant Counsel  
NSWC PHD  
(805) 228-6292

-----Original Message-----

From: Lazarus, Philip S CIV PHD NSWC, 00L  
Sent: Monday, August 24, 2015 9:44 AM  
To: Magallon, Rosie CIV PHD NSWC, A66  
Subject: RE: Magallon, Freedom of Information Act Request, 2015-OCHR-0023

Rosie -

Understood. That said, would appreciate your patience. Thanks very much. Philip

-----Original Message-----

From: Magallon, Rosie CIV PHD NSWC, A66  
Sent: Monday, August 24, 2015 8:18 AM  
To: Lazarus, Philip S CIV PHD NSWC, 00L  
Cc: Lee, Wonjun (wlee@osc.gov); Torresramos, Tony SES OCHR, 02; Bortz, Laurie R CIV OCHR, 00E; Rutherford, Robert C JR CIV DONAA, OCHR; Luby, Cord H CAPT PHD NSWC, 00  
Subject: RE: Magallon, Freedom of Information Act Request, 2015-OCHR-0023

Dear Mr. Lazarus,

Can please provide a written explanation why it would take more than the twenty (20) business day to answer Counsel Bortz's letter and my FOIA requests. Also, I submitted my original FOIA requests 'six months ago' (February 2015).

Based on Counsel Rutherford's email below dated, July 24, 2015, it appears the agency respond to the Civilian Human Resources inquiry on the documentation I am seeking and the response was - NSWC PHD does not have any responsive documents to your request. Therefore, I am very perplexed why it would take more than twenty (20) business day to issue an official letter stating as such.

Thank you kindly to your attention to my FIOA Request.

v/r,  
Rosie Magallon  
NSWC PHD  
Air Dominance, Code A64  
(805) 228-0772

-----Original Message-----

From: Lazarus, Philip S CIV PHD NSWC, 00L  
Sent: Monday, August 24, 2015 7:43 AM  
To: Magallon, Rosie CIV PHD NSWC, A66  
Subject: RE: Magallon, Freedom of Information Act Request, 2015-OCHR-0023

Acknowledged. To process your FOIA requests, more than 20 days is required. Once complete, you'll receive a response. Thank you.

Philip Lazarus

-----Original Message-----

From: Magallon, Rosie CIV PHD NSWC, A66

Sent: Monday, August 24, 2015 6:44 AM

To: Lazarus, Philip S CIV PHD NSWC, 00L

Cc: Lee, Wonjun (wlee@osc.gov); Torresramos, Tony SES OCHR, 02; Bortz, Laurie R CIV OCHR, 00E; Rutherford, Robert C JR CIV DONAA, OCHR; Luby, Cord H CAPT PHD NSWC, 00; Magallon, Rosie CIV PHD NSWC, A66

Subject: FW: Magallon, Freedom of Information Act Request, 2015-OCHR-0023

Importance: High

Dear Mr. Lazarus,

Per Counsel Rutherford's email, Counsel Bortz's letter (see attached - Magallon Referral Letter - dated July 23, 2015) and in accordance to SECNAVINST 5720.42f and 32 CFR 701, can you please provide status to Counsel Bortz's letter and my FOIA request, as the twenty (20) business day time limit has expired. I am seeking an official response and letter stating that NSWC PHD does not have any responsive documents to my request. Please see Counsel Rutherford's email dated July 24, 2015 (see email trail below).

Please note - my original FOIA requests were submitted to Mr. Ed Vicuna (NSWC PHD Human Resources Director) on February 9 and 19, 2015 (see attached- FOIA Request E. Vicuna). However, I did not receive a response to the FOIA requests nor to the request to access my Official Personnel File (OPF).

In efforts to ensure a response I also submitted a FOIA request through the U.S. Navy FOIA On-Line on August 18, 2015. I received a response from PHD NSWC on August 18, 2015 (see attached - DON-NAVY-2015-008443) indicating the following:

Estimated Date of Completion: TBD

Description: The description of this request is under Agency review.

In addition to the relative documentation listed on Counsel Bortz's letter, I am also seeking relative documentation for the accusation criminal offense specifically - 18 U.S.C. 1001, including but not limited to NSWC PHD Security and NCIS investigation report. (see attached - Offer of Settlement- dated October 31, 2013).

Based on the above information and non-action by those in authoritative positions who have cognizance over these issues and requests, evidently feel that the governing laws do not apply to them based on non-compliance. I feel this is yet another form of the continual harassment, bully tactics and retaliatory actions I have experienced since filing an EEO Complaint.

Thank you kindly for your attention to my FOIA request.

v/r,

Rosie Magallon

NSWC PHD

Air Dominance, Code A64

(805) 228-0772

-----Original Message-----

From: Rampey, Marvin D CIV PHD NSWC, 00L

Sent: Monday, July 27, 2015 8:55 AM

To: Lazarus, Philip S CIV PHD NSWC, 00L

Cc: Magallon, Rosie CIV PHD NSWC, A66; Christopher Fortunati (Christopher@baskinlawoffice.com)

Subject: FW: Magallon, Freedom of Information Act Request, 2015-OCHR-0023  
Importance: High

Philip,

Please process the attached FOIA request.

Mahalo,

Marvin

-----Original Message-----

From: Magallon, Rosie CIV PHD NSWC, A66  
Sent: Monday, July 27, 2015 8:42 AM  
To: Rampey, Marvin D CIV PHD NSWC, 00L  
Cc: Rutherford, Robert C JR CIV DONAA, OCHR; Magallon, Rosie CIV PHD NSWC, A66  
Subject: FW: Magallon, Freedom of Information Act Request, 2015-OCHR-0023  
Importance: High

Mr. Rampey,

Per the email below, Counsel Bortz's letter (see attachment) and the Freedom of Information Act (FOIA), I am also seeking copy of relative documentation for criminal offense specifically (18 U.S.C. 1001) (see attached letter dated October 31, 2013).

Thank you for your attention to this request.

v/r,  
Rosie Magallon  
NSWC PHD  
Air Dominance, Code A64  
(805) 228-0772

-----Original Message-----

From: Rutherford, Robert C JR CIV DONAA, OCHR  
Sent: Friday, July 24, 2015 12:11 PM  
To: Magallon, Rosie CIV PHD NSWC, A66  
Cc: Rampey, Marvin D CIV PHD NSWC, 00L  
Subject: Magallon, Freedom of Information Act Request, 2015-OCHR-0023  
Importance: High

Ms. Magallon:

This email and attachments are in response to your Freedom of Information Act request to OCHR Headquarters that was directed to Tony Torresramos. As an initial matter, OCHR does not have any responsive documents to your requests.

Just to clarify your July 14th email response below. During our telephone conversation, I did not state that NAVSEA HQ sent a document request to NSWC PHD. I stated that OCHR HQ sent a request to NSWC PHD to inquiry about the requested documents. Based on the response that OCHR HQ received, NSWC PHD did not have any responsive documents. Since the documents that were requested were not within OCHR's cognizance, a FOIA representative from NSWC PHD would need to issue you an official letter that would state that NSWC PHD does not have any responsive documents to your request. We cannot make such a statement on their behalf. I have referred this matter to Mr. Marvin Rampey to assist you. He has also been carbon-copied on this email

correspondence.

If you need any further assistance, please do not hesitate to contact me.

V/R

RR2

ROBERT CHARLES RUTHERFORD  
Associate Counsel  
Department of the Navy  
Office of Civilian Human Resources  
(202) 685-6415 (office)  
(202) 685-6616 (fax)  
robert.c.rutherford1@navy.mil

-----Original Message-----

From: Magallon, Rosie CIV PHD NSWC, A66  
Sent: Monday, July 20, 2015 10:36 AM  
To: Rutherford, Robert C JR CIV DONAA, OCHR  
Cc: Magallon, Rosie CIV PHD NSWC, A66  
Subject: RE: Freedom of Information Act Request

Good Morning Mr. Rutherford.

I greatly appreciate your response while on vacation.

I look forward to receiving the letter.

Thank you for your time and attention to this request.

v/r,  
Rosie Magallon  
NSWC PHD  
Air Dominance, Code A64  
(805) 228-0772

-----Original Message-----

From: Rutherford, Robert C JR CIV DONAA, OCHR  
Sent: Monday, July 20, 2015 6:01 AM  
To: Magallon, Rosie CIV PHD NSWC, A66  
Subject: RE: Freedom of Information Act Request

Good morning Ms. Magallon:

I am currently on vacation, and I will have some backlog to contend with when I return to the office this upcoming week. I will keep you informed, but I will be sending you a letter next week.

Thank you

V/R  
RR2

-----Original Message-----

From: Magallon, Rosie CIV PHD NSWC, A66  
Sent: Tuesday, July 14, 2015 9:41 AM

To: Rutherford, Robert C JR CIV DONAA, OCHR  
Cc: Magallon, Rosie CIV PHD NSWC, A66  
Subject: RE: Freedom of Information Act Request

Mr. Rutherford,

I would like to take this opportunity to thank you for your time and response to the request I sent to Mr. Tony Torresramos on February 23, 2015, on obtaining access to my Personnel File and official documentation from my file. (see attached email, attachments included)

I am following up to our telephone conversation on Tuesday, June 30, 2015, you mentioned NAVSEA HQ sent a document request to the Command (NSWC PHD) requesting the documentation I am seeking and the Command responded stating no such documentation exist. You also mentioned you will be providing me a written response to the request I sent to Mr. Torresramos via email.

Again, thank you for your time and attention to my request.

Sincerely,  
Rosie Magallon  
NSWC PHD  
Air Dominance, Code A64  
(805) 228-0772

-----Original Message-----

From: Magallon, Rosie CIV PHD NSWC, A66  
Sent: Monday, June 29, 2015 7:22 AM  
To: Rutherford, Robert C JR CIV DONAA, OCHR  
Cc: Magallon, Rosie CIV PHD NSWC, A66  
Subject: RE: Freedom of Information Act Request  
Importance: High

Mr. Rutherford,

My apologies for delay in my reply, I was out of the office last week.

Per your email below regarding the FOIA request I made earlier this year. Can you please forward the request I made. I would like to know what specific FOIA request you are referencing and to whom did I submit this request to.

As per your request below, I left you a voice mail this morning at approximately 7:10am PST.

Can you please email me the said request in efforts to discuss the matter.

v/r,  
Rosie Magallon  
Air Dominance, Code A66  
Supply Support Team Lead  
(805) 228-0772

-----Original Message-----

From: Rutherford, Robert C JR CIV DONAA, OCHR  
Sent: Tuesday, June 23, 2015 1:32 PM  
To: Magallon, Rosie CIV PHD NSWC, A66  
Subject: Freedom of Information Act Request  
Importance: High

Ms. Magallon:

My name is Robert Charles Rutherford and I am an Associate Counsel at OCHR Headquarters. I am following up on a FOIA request that you made earlier this year. Would you please give me call to discuss the matter. Thank you.

V/R

RR2  
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